HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.8333 of 2007

Dated:08.06.2007

Between:

The Sind Cooperative Urban Bank Limited.

…Petitioner.

and

Chairman, A.P.Co-operative Tribunal, Hyderabad and others.

…Respondents

HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.8333 of 2007

ORDER:

The 3rd respondent borrowed a sum of Rs.2,00,000/-, as loan, from the petitioner. Respondents 4 and 5 are the guarantors. The amount was to be paid in monthly instalments at Rs.8,600/-. Since the 3rd respondent committed default in payment of loan, petitioner initiated proceedings before the 2nd respondent under the Andhra Pradesh Cooperative Societies Act, 1964. A recovery certificate was issued and it was followed by filing of E.P.No.50 of 2006. Thereupon, the 3rd respondent approached the A.P. Cooperative Tribunal, Hyderabad, the 1st respondent herein, by filing C.T.A.(SR) No.837 of 2007. She also filed I.A.No.147 of 2007 for stay. The 1st respondent granted stay, on condition that the 3rd respondent deposits a sum of Rs.70,000/-, within one month, through order, dated 13.04.2007. The petitioner challenges the said order.

Learned counsel for the petitioner submits that the 3rd

respondent did not dispute her liability to pay the amount and there was no necessity to grant stay at all. He contends that the 3rd respondent is under obligation to pay the instalments and at least there ought to have been a direction for payment of instalments.

At the stage of admission, the 3rd respondent was served with notice and she entered appearance. Learned counsel appearing for her submits that though her liability is not disputed, the 3rd respondent made efforts to avail the benefit of One Time Settlement Scheme and even as of now, she is reeling under financial hardship.

The Tribunal is conferred with the power to grant interim orders to be in force during the pendency of the appeals. There cannot be any hard and fast rule as to the manner in which interim orders need to be passed. The nature of orders would depend upon the facts and circumstances of the case.

In the instant case, the 3rd respondent had already paid a sum of about one lakh by the time the appeal came to be filed. Taking that into account, the Tribunal directed the 3rd respondent to pay a sum of Rs.70,000/-, as a condition for granting stay. Even this amount was paid. Therefore, it cannot be said that the order passed by the Tribunal is unreasonable.

One fact which, however, needs to be taken into is that the 3rd respondent did not dispute the fact that she borrowed the amount and that she did not pay the instalments regularly. Though substantial amount stood paid, the mere pendency of the appeal, cannot relieve the 3rd respondent of her obligation to pay the instalments. Taking totality of the circumstances into account, this Court is of the view that the 3rd respondent may be required to pay a sum of Rs.5,000/-, per month, till the disposal of the appeal, in addition to what has been paid by her already.

Hence, the Writ Petition is disposed of, upholding the order

under challenge, but directing that the 3rd respondent shall be under obligation to deposit a sum of Rs.5,000/-, per month, on or before 10th of every month, commencing from June, 2007, with the petitioner. The Tribunal shall endeavour to dispose of the appeal, not later than four months from the date of receipt of a copy of this order. The 2nd respondent shall take steps to forward the record to the Tribunal to enable the disposal of the appeal. There shall be no order as to costs.

Dt.08.06.2007 **L.NARASIMHA REDDY, J**

GJ